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OCT 14 2004

OFFICE OF PETITIONS

In re Application of :
Mostafa Abidi, Christian G. Hillard :
and Remi B. Loevenbruck : DECISION REFUSING STATUS
Application No. 10/826,872 : UNDER 37 CFR 1.47(a)
Filed: April 16, 2004 :
For: EVAPORATED FUEL PROCESSING
DEVICE

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 30, 2004, (certificate of mailing: August 27, 2004).

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor.

FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.

Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on April 16, 2004 without an executed oath or declaration and naming Mostafa Abidi, Christian G. Hillard and Remi B. Loevenbruck as joint inventors.

Accordingly, on June 28, 2004, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a filing fee, and a surcharge for their late filing.

In response, on August 30, 2004, (certificate of mailing: August 27, 2004), the instant petition was filed.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1) and (4), as set forth above.

As to item (1), applicant appears to demonstrate that the non-signing inventor was only mailed the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, Rule 47 applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

Furthermore, applicant states, "Mr. Abidi was contacted by phone by assignee's employee and indicated an unwillingness to cooperate in signing the Declaration." Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers *and of the refusal* must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted. See MPEP 409.03(d). Applicant should submit a statement by assignee's employee that spoke with the non-signing inventor that provides details of the conversation with the non-signing inventor.

As to item (4), a statement of the inventor's last known address is missing and is required.

The \$130.00 petition fee will be charged to deposit account no. 50-0831.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

By FAX: (703) 872-9306
 Attn: Office of Petitions

By hand: Customer Service Window
 2011 South Clark Place
 Crystal Plaza Two (left side entrance of building)
 Arlington, VA

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3228.

A handwritten signature in dark ink, appearing to read 'Ed J. Tannouse', with a long horizontal flourish extending to the right.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office